

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  BLUE RIDGE TELECOM SYSTEMS, L.L.C.	DOCKET NOS. TCU-02-4 WRU-02-9-3629
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**ORDER GRANTING APPLICATION, APPROVING CONCURRENCE IN MAPS,  
GRANTING WAIVER, AND GRANTING REQUEST FOR CONFIDENTIALITY**

(Issued April 26, 2002)

On March 13, 2002, Blue Ridge Telecom Systems, L.L.C. (Blue Ridge), filed an application for issuance of a certificate of public convenience and necessity, pursuant to Iowa Code § 476.29 (2001), stating its intention to provide local exchange service to both residential and business customers in the exchanges currently served by Qwest Corporation (Qwest) and Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom). The application has been identified as Docket No. TCU-02-4. Blue Ridge has provided the qualifications of its company officers and financial statements and has stated it will support a 2-PIC methodology for dialing parity.

Iowa Code § 476.29(2) provides that a local exchange carrier shall not be denied a certificate if the Utilities Board (Board) finds that the applicant “possesses the technical, financial, and managerial ability to provide the service it proposes to render and the Board finds the service is consistent with the public interest.”

The Board has reviewed Blue Ridge's application and finds the necessary technical, financial, and managerial abilities to provide local exchange service has been demonstrated. The Board finds it is in the public interest to approve the application.

Blue Ridge also states that its service area will mirror the service territories of exchanges and service area maps of Qwest and Iowa Telecom as they are currently filed and may be modified in the future. Iowa Code § 476.29(4) requires that each certificate define the service territory in which land-line local telephone service will be provided and authorizes the Board to promulgate rules establishing the requirements for filing maps showing the service territory. Subrule 199 IAC 22.20(3) requires that all utilities have on file with the Board maps, which show exchange boundaries. The Board finds that Blue Ridge has complied with the statutory and rule requirements by concurring in the exchange maps of Qwest and Iowa Telecom.

Blue Ridge has requested the Board waive the requirements of 199 IAC 16.5(2), 18.2, and 22.3(1). The waiver requests were identified as Docket No. WRU-02-9-3629.

Blue Ridge requested a waiver of 199 IAC 16.5(2), which requires the keeping of records according to the uniform system of accounts. Blue Ridge states it will maintain its books in accordance with generally accepted accounting principles (GAAP). The Board finds this waiver should be granted since records kept in accordance with GAAP accounting are acceptable for a competitive local exchange service provider.

Blue Ridge has also requested the requirements of 199 IAC 18.2 be waived. The rule requires that a regulated public utility keep its records in Iowa. The Board will grant the waiver based on Blue Ridge's statement that it will make the records available to the Board upon request.

Blue Ridge also requests a waiver of 199 IAC 22.3(1), requiring it to independently publish a directory. The Board will grant the waiver based upon Blue Ridge's statement that it will arrange for its customers to be included in the directories published in the areas it provides local exchange service.

Rule 199 IAC 1.3 states that the Board may grant waivers if it finds, based upon clear and convincing evidence, that the application of the rule would pose an undue hardship, the waiver would not prejudice the substantial legal rights of any person, the provisions waived are not specifically mandated by statute, and substantially equal protection of public health, safety, and welfare will be afforded after the waiver. The Board has considered the waiver requests as described above and finds that the waiver meets the four criteria of the rule and the evidence in support of the waiver is clear and convincing.

Adherence to these rules would be an undue hardship on a competitive telecommunications company just beginning to do business in Iowa. It would be an undue hardship on Blue Ridge because other competitive carriers have been granted similar waiver requests. The Board finds there are no substantial legal rights of any person that are affected by these waivers and there is no statute that specifically mandates the actions waived. Additionally, the Board finds that there will be

substantial equal protection for health, safety, and welfare provided since the actions waived will be completed under different circumstances.

Filed concurrently with its application, Blue Ridge made a request for confidential treatment of its financial statements, which were submitted in support of its application. Blue Ridge supports its request with an affidavit of a corporate officer, stating that the information constitutes confidential trade secrets. The materials were sealed in a separate envelope and marked confidential.

Iowa Code § 22.7(6) provides confidential treatment for public records that are reports to government agencies and which, if released, would give advantage to competitors and would serve no public purpose. The Board finds that Blue Ridge's request and affidavit support a finding that the financial information, if released, would provide an advantage to Blue Ridge's competitors. In addition, the Board finds that the release of the information would serve no public purpose. The Board also finds the information satisfies the definition of a trade secret as found in Iowa Code § 550.2(4). Therefore, the Board will hold the information confidential under the provisions of Iowa Code §§ 22.7(6) and 22.7(3), as requested by Blue Ridge on March 13, 2002.

Blue Ridge has not filed proposed tariffs for Board approval setting out the service and rates for providing local exchange service. The Board finds that a certificate should not be issued to Blue Ridge until it has approved tariffs on file with the Board.

**IT IS THEREFORE ORDERED:**

1. The application for a certificate of public convenience and necessity filed by Blue Ridge Telecom Systems, L.L.C., on March 13, 2002, is granted, subject to the requirements that follow.

2. The Board will issue a certificate of public convenience and necessity allowing Blue Ridge Telecom Systems, L.L.C., to provide facilities-based local exchange service upon approval of tariffs to reflect the prices, terms, and conditions, of local exchange service in Iowa. At the time Blue Ridge Telecom Systems, L.L.C., files proposed tariffs with the Board, it must give notice to all affected local exchange carriers.

3. The concurrence in the maps and boundaries of the exchanges of Qwest Corporation and Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom, is approved.

4. The waiver of 199 IAC 16.5(2), 18.2, and 22.3(1), identified as Docket No. WRU-02-9-3629, is granted as described in this order.

5. The request for confidentiality filed by Blue Ridge Telecom Systems, L.L.C., on March 13, 2002, is granted pursuant to Iowa Code §§ 22.7(6) and 22.7(3).

The information shall be held confidential by the Board subject to the provisions of  
199 IAC 1.9(8)"b"(3).

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 26<sup>th</sup> day of April, 2002.